

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

STATE OF MISSOURI,)	No. ED100156
)	
Plaintiff/Respondent,)	Appeal from the City of St. Louis
)	Circuit Court
vs.)	
)	Honorable Thomas C. Grady
THERESA FORTNER,)	
)	Filed: October 7, 2014
Defendant/Appellant.)	

Theresa Fortner (Defendant) appeals from the judgment entered upon her convictions following a bench trial for second-degree felony murder, first-degree endangering the welfare of a child, and armed criminal action. On appeal, Defendant challenges the seizure of a blood sample obtained by law enforcement, the admission of her blood alcohol test results, and the sufficiency of the evidence to support her convictions for first-degree child endangerment and armed criminal action.

AFFIRMED.

Division Two Holds:

- 1) The trial court did not err in overruling Defendant's motion to suppress the results of her blood alcohol test because Defendant expressly consented to a request by a law enforcement officer to obtain a blood sample for a blood alcohol test following Defendant's involvement in a car accident.
- 2) The trial court did not abuse its discretion by admitting the results of Defendant's blood alcohol test.
- 3) There was sufficient evidence to support Defendant's conviction for first-degree child endangerment because Defendant knowingly engaged in conduct that created a substantial risk to B.H.'s life, body, or health.
- 4) There was sufficient evidence to support Defendant's conviction for armed criminal action because Defendant knowingly employed her car as a dangerous instrument by using the vehicle in a manner and under

circumstances in which the car was readily capable of causing death or serious physical injury.

Opinion by: Philip M. Hess, J.
Sherri B. Sullivan, P.J. and Mary K. Hoff, J. concur.

Attorney for Appellant: James C. Ochs
Patrick T. Ochs

Attorney for Respondent: Gregory L. Barnes

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
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